



The Comptroller General
of the United States

Washington, D.C. 20548

westfall

Decision

Matter of: Collins & Aikman--Request for Reconsideration

File: B-225439.4

Date: February 5, 1987

DIGEST

Requirement that protest based on alleged impropriety incorporated into solicitation by amendment be filed before the next closing date for receipt of proposals applies where protester received amendment 10 days before next closing date but did not file protest until after closing date because it was allegedly unaware of deadline in General Accounting Office Bid Protest Regulations.

DECISION

Collins & Aikman requests that we reconsider our dismissal of its protest of an amendment to the General Services Administration's request for proposals (RFP) No. FCNH-F8-1887-N for various types of carpet. We dismissed Collins' protest as untimely since it was not filed until after the closing date for receipt of best and final proposals. We affirm the dismissal.

Collins explains that it received the amendment on December 9, 10 days before the December 19 closing date for receipt of best and final proposals. Since the amendment contained several changes, the protester did not notice the change in the specification to which it objects until shortly before the closing date. Although it claims to have made numerous attempts to contact the contracting officer, it was unable to reach him prior to submission of its best and final offer on the 19th.

The protester argues that it was unaware of the requirement in our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1986), that a protest of an impropriety incorporated into a solicitation by amendment be filed not later than the next closing date for receipt of proposals. Collins also notes that when it contacted our Office on December 23, it was instructed that it would have 10 working days within which to file a protest.

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We will waive the requirement that protests of improprieties in an amendment be filed prior to the next closing date where the protester does not receive the amendment which creates the alleged defect in time to file a protest before the next closing date. The Big Picture Co., B-210535, Feb. 17, 1983, 83-1 CPD ¶ 166. Here, however, Collins received the amendment 10 days before final proposals were due, and had a reasonable opportunity to study the amendment and to file a timely protest. See Cosmos Engineering, Inc., B-217430, Jan. 18, 1985, 85-1 CPD ¶ 62. The fact that the protester did not notice that the amendment pertained to the type of carpet it offered until shortly before the proposal due date does not change the result, since the protester alone was responsible for this oversight. Further, the fact that Collins was unaware that it had to file its protest prior to the next closing date for receipt of proposals is not relevant. Protesters are on constructive notice of our regulations since they are published in the Federal Register and in the Code of Federal Regulations. Engineers International Inc.--Reconsideration, B-219760.2, Aug. 23, 1985, 85-2 CPD ¶ 225.

Finally, although Collins claims that it was given misleading advice when it called our Office, the protester did not contact our Office until December 23, 4 days after its deadline for filing a protest had passed and thus it cannot argue that it missed the deadline due to its reliance on this informal advice.

The prior dismissal is affirmed.

for Seymour E. Gros
Harry R. Van Cleve
General Counsel